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FISCAL IMPACT STATEMENT

LS 6713 | **NOTE PREPARED:** Dec 26, 2006
BILL NUMBER: HB 1083 | **BILL AMENDED:**

SUBJECT: Health Benefit Plan Credit.

FIRST AUTHOR: Rep. Orentlicher | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: The bill allows certain employers to take an Adjusted Gross Income Tax credit related to making a health benefit plan available to the employers' employees.

Effective Date: January 1, 2008.

Summary of Net State Impact: The estimated net impact of the Employer Health Benefit Plan Tax Credit is summarized in the table below.

Revenue Base (million $)	FY 2009	FY 2010	FY 2011	FY 2012
Adjusted Gross Income Tax				
Employer Health Benefit Plan Tax Credit*	(0.7 M)	(0.7 M)	(0.6 M)	0
Employee Health Benefit Plan Premium Exclusion**	0	0	(3.1 M)	(3.4 M)
Insurance Premiums Tax	2.1 M	2.3 M	2.5 M	2.7 M
Net Revenue Gain (Loss)	1.4 M	1.6 M	(1.2 M)	(0.7 M)

*The tax credit affects the Adjusted Gross Income Tax, Financial Institutions Tax, and Insurance Premiums Tax.
**The exclusion affects the Individual Adjusted Gross Income Tax.

Some of the FY 2009-FY 2011 fiscal impact (tax credits, premium exclusions, and premium taxes) could be shifted to a later period to the extent that employers delay initially offering health benefits to employees until 2009 and after. In addition, the fiscal impact (tax credits, premium exclusions, and premium taxes) could be increased somewhat if additional employers with 10 or more employees arise due to business start-ups or business expansions. The extent to which these changes could occur is indeterminable.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this tax credit. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Summary:* The Employer Health Benefit Plan Tax Credit could potentially reduce revenue from the Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, and Insurance Premiums Tax beginning in FY 2009. The estimated reduction in revenue due to the tax credit is discussed below under the section *Employer Health Benefit Plan Tax Credit*. The health benefit plan credit could potentially have the following two additional impacts on Insurance Premium Tax revenue and revenue from the Individual AGI Tax.

(1) After the first two years that employees participate in a health benefit plan provided by an employer receiving the tax credit, premiums paid by the employee meeting certain income requirements will be excluded from Indiana AGI. This is expected to decrease AGI tax revenue from these individual taxpayers. This impact is discussed below under the section *Health Benefit Premium Exclusion*.

(2) The health benefit plan credit also could potentially increase revenue from the Insurance Premiums Tax as more insurance policies are underwritten in the state. The increase in Insurance Premium Tax revenues may partially mitigate the impact of the AGI exclusion. The extent of this offset, however, depends on the amount of Insurance Premium Tax credits that health insurance companies currently take and carry forward. This impact is discussed below under the section *Insurance Premiums Tax*.

The fiscal impact of the tax credit program is predicated on the following assumptions:

(1) All employers of 10 or more employees that currently don't offer a health benefit plan, do so and claim the tax credit;

(2) 10% of employees participate in the health benefit plan offered by these employers, and participating employees are currently uninsured or not insured by another policy. (Note: A 10% employee participation rate may be conservative given that recent survey research suggests that over 83% of workers in firms offering health benefits participate in the health plan. However, it is assumed that participation rates will be limited if employees pay the full premium cost of the health benefit plan.)

(3) Employers offering a health benefit plan for the first time as a result of the credit require participating employees to pay all of the premium costs.

(4) Employees pay health insurance premiums with "pre-tax" dollars (amounts excluded from federal AGI).

(6) Average 2006 premium levels for employer-provided health benefits range from $4,292 to $4,306 for single health coverage and $11,452 to $11,557 for family health coverage.

(3) 2000 to 2006 average annual growth in health benefit premiums (equal to about 10.6%) and the 2006 market penetration of HMOs in Indiana (equal to about 19.7%) will persist beyond 2006.

Employer Health Benefit Plan Tax Credit: The estimated impact of the employer tax credit is summarized in the table below.

Fiscal Year	Revenue Loss from Tax Credit
2009	0.7 M
2010	0.7 M
2011	0.6 M
2012	0

The bill establishes a tax credit against the Adjusted Gross Income (AGI) Tax liability, Financial Institutions Tax liability, or the Insurance Premiums Tax liability for qualified taxpayers who make at least one health benefit plan available to their employees for the first time after December 31, 2007. To qualify for the tax credit a taxpayer must employ 10 or more full-time employees in Indiana and may not offer health coverage under a self-funded plan that complies with ERISA. In addition, participation by employees in the health benefit plan must be voluntary.

The bill defines a "health benefit plan" as a health insurance policy or contract with an HMO that satisfies the requirements of Section 125 of the Internal Revenue Code. Section 125 allows employees (and employers) to pay their share of insurance premiums with pretax dollars which reduces the employee's taxable income and FICA and the employer's FICA and unemployment insurance tax payments. Under a Premium Only Plan (POP) which satisfies Section 125 requirements, the employer does not have to pay any portion of the health insurance premium. While the bill allows a qualified taxpayer to pay any or all of the health insurance premium cost, it does not require such payments.

The credit may be claimed in each of the first two years that the health benefit plan is made available to employees. The credit is equal to $50 per employee enrolled in the employer's health benefit plan, up to a maximum of $2,500 per year. An employer claiming the credit must offer health insurance for at least 24 consecutive months after the taxable year in which the health benefit plan is initially offered. The bill contains a "claw-back" provision where employers who fail to meet this requirement have to pay back the tax credit. The credit is nonrefundable, but unused credit may be carried forward to subsequent years. The tax credit may not be carried back to previous years. In addition, the bill requires that an employer claiming the credit notify employees who participate in the health benefit plan of the amount of the employee's eligible benefits that are included in the employee's Indiana AGI for the first and second taxable years after the employer takes the credit. Eligible benefits are the total amount of health insurance premiums excluded from the employee's federal AGI. The credit is available beginning January 1, 2008; thus, the fiscal impact could potentially begin in FY 2009.

The impact of the health benefit tax credit is a function of the number of employers with 10 or more Indiana employees that are currently not providing a health benefit plan to their employees, but in the future choose to offer a health benefit plan and claim the tax credit. Estimates based on recent survey research suggest that there are almost 8,100 Indiana businesses with 10 or more employees that do not offer a health benefit plan. Of these businesses, a number of them would have sufficient tax liability to utilize the entire credit in a given year.

Revenue from the Corporate AGI Tax, Financial Institutions Tax, and Insurance Premiums Tax is deposited in the state General Fund. Eighty-six percent of the revenue from the Individual AGI Tax is deposited in the state General Fund, and 14% is deposited in the Property Tax Replacement Fund.

Health Benefit Premium Exclusion Impact: The estimated impact of the exclusion of premium payments from Indiana AGI for employees is summarized in the table below.

Fiscal Year	Revenue Loss from Premium Exclusion
2009	0
2010	0
2011	3.1 M
2012	3.4 M

Under a health benefit plan that qualifies an employer for the tax credit, the employee would pay his or her share of the premium cost with pretax dollars. This would reduce the employee's taxable income and decrease revenue from the Individual AGI Tax. As a result, the bill provides that premiums paid with pretax dollars by employees participating in the health benefit plan must be added back to the employee's Indiana AGI for the first two years after the health benefit plan is offered. After the first two years, the add back is income-determined. For an employee with annual income of $80,000 or more from the employer, the add-back continues to apply fully. An employee with annual income ranging from $40,000 to $80,000 must add back 50% of the insurance premiums paid with pretax dollars. And, an employee with annual income of less than $40,000 is not required to add back any of the premiums paid by the employee with pretax dollars.

Insurance Premiums Tax Impact: The health benefit plan credit could potentially increase revenue from the Insurance Premiums Tax as health insurance premiums written in Indiana increase. The impact could potentially begin in FY 2009. The estimated impact from additional Insurance Premium Tax revenue is summarized in the table below.

Fiscal Year	Revenue Gain from Insurance Premiums Tax Exclusion
2009	2.1 M
2010	2.3 M
2011	2.5 M
2012	2.7 M

Explanation of Local Expenditures:

Explanation of Local Revenues: The bill requires that the employees of employers claiming the health benefit plan tax credit add back the value of the employee's health benefit contribution to AGI for the first two years after the health benefit plan is offered. Therefore, the bill will have no impact on local option income tax revenues for these two years. After the first two years, the add-back is income-determined so taxable income of some employees would be reduced (see *Explanation of State Expenditures*). As a result, counties imposing a local option income tax (CAGIT, COIT, CEDIT) would experience an indeterminable decrease in revenue from these taxes beginning two years after businesses have taken the credit.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with local option income taxes (third and subsequent years after the health benefit credit is taken).

Information Sources: OFMA Corporate Income Tax database;. Kaiser Family Foundation, *Employer Health Benefits 2006 Annual Survey*, available at http://www.kff.org and *State Health Facts Online* available at http://www.statehealthfacts.kff.org/; Bureau of the Census, *County Business Patterns, 2004*; The Urban Institute, *Could Subsidizing COBRA Health Insurance Coverage Help Most Low-Income Unemployed?*.

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